

Rye City Planning Commission Minutes

February 25, 2003

1 **PRESENT:**

2 Michael Klemens, Chairman
3 Barbara Cummings, Vice-Chair
4 Peter Larr
5 Franklin Chu
6 Patrick McGunagle
7 Martha Monserrate
8 Hugh Greechan
9

10 **ABSENT:**

11
12 **ALSO PRESENT:**

13
14 Christian K. Miller, AICP, City Planner
15 George M. Mottarella, P.E., City Engineer
16

17 Michael Klemens called the meeting to order and noted that a quorum was present to
18 conduct official business.
19

20 **I. HEARINGS**

21
22 **1. Hancock**

23 Chairman Klemens read the public notice and a letter from Barbara Hancock, stating that
24 she is a co-owner of the property and wished to be listed as such on the application and to
25 receive copies of all correspondence concerning this application.
26

27 David Mooney (applicant's architect) gave a brief overview of the project. He noted that
28 the application involves the construction of a fixed wooden dock with ramp and floating
29 dock in the rear yard of a single-family residence located at 315 Brevoort Lane. Mr.
30 Mooney noted that the Commission in July 2000 previously approved this application but
31 that the permit expired. He noted that the applicant has valid NYSDEC and Army Corps of
32 Engineers permits, which expire in February 2004. Mr. Mooney stated that there is no
33 change from the original application.
34

35 Since the property is not occupied, the Commission questioned who was going to reside
36 at this property. Barbara Hancock stated that either she was going to live there or the
37 property was going to be sold.
38

39 The Chairman invited comments from the public. There were no public comments.
40

Rye City Planning Commission Minutes (Cont.)

February 25, 2003

Page 2 of 8

On a motion made by Barbara Cummings, seconded by Pat McGunagle and carried by the following vote:

AYES: Michael Klemens, Peter Larr, Franklin Chu, Barbara Cummings, Martha Monserrate, Patrick McGunagle

NAYS: None

RECUSED: None

ABSENT: Hugh Greechan

the Planning Commission took the following action:

ACTION: The Planning Commission closed the public hearing on Wetland Permit Application #WP123.

2. Kass

Chairman Klemens read the public notice.

Linda Whitehead (applicant's attorney) gave an overview of the application, noting that it involved the construction of a one-story addition at rear of an existing residence and the expansion of a patio within 100-foot buffer. Ms. Whitehead noted that the plan includes landscaping and modifications to an existing stonewall located on adjacent Home Owner's Association property. The plan notes that the building addition will add 200 sq. ft. of impervious area in the buffer and 275 sq. ft. of additional patio. Based on information provided by the City Planner's office, Ms. Whitehead stated that the application includes a 75% impervious factor for the calculation of wetland buffer impacts associated with the patio. Ms. Whitehead indicated that the new plantings on the property would slow down the stormwater runoff to the pond. She noted that the plan provides 430 sq. ft. of plantings on Home Owner's Association (HOA) property, which would only be provided subject to HOA approval and was not included towards the applicant's 2:1 mitigation requirements. Ms. Whitehead indicated that the next HOA meeting is schedule for April 2003.

The Commission invited comments from the public. There were no public comments.

The Commission had several questions regarding the application and advised Ms. Whitehead that plans are incomplete and stated that they would keep the hearing open pending the submission of revised drawings. The Commission also questioned whether proper notification was done. Ms. Whitehead stated that the applicant wants to move into the house in June and needs to start construction as soon as possible. She questioned why the hearing must be kept open since there were no public comments on the application. She suggested that the Commission's questions could be dealt with in the

Rye City Planning Commission Minutes (Cont.)

February 25, 2003

Page 3 of 8

work session. Ms. Whitehead further noted that neighbors within 500 feet of the address had been notified in connection with the variance that was approved by the Zoning Board of Appeals.

On a motion made by Barbara Cummings, seconded by Pat McGunagle and carried by the following vote:

AYES: Michael Klemens, Peter Larr, Franklin Chu, Barbara Cummings, Martha Monserrate, Patrick McGunagle

NAYS: None

RECUSED: None

ABSENT: Hugh Greechan

the Planning Commission took the following action:

ACTION: The Planning Commission kept the public hearing open on Wetland Permit Application #WP124.

II. ITEMS PENDING ACTION

1. Hancock

The Commission stated that the current application would be treated as a new application, despite it having been approved previously by the same Commission. The Commission discussed its concern with other dock applications it has reviewed but noted that the current application (unlike some prior applications), is consistent with other docks in the area, involves no dredging, is reasonable in scale and does not interfere with recreational boating. David Mooney (applicant's architect) stated that this application is consistent with the previously approved application and is smaller and relatively consistent with several other applications in the area approved by this Commission.

The Commission discussed the advantages and disadvantages of various mitigation strategies including requiring the applicant to provide 2:1 tidal marsh mitigation plantings or paying monies into a wetland restoration fund. The Commission discussed how much disturbance the dock pylons would cause. Mr. Mooney estimated that each of the seven pylons would be roughly two square feet.

Though only a small impact the Commission felt that mitigation plantings were called for in keeping with other similar applications. The Commission agreed that the applicant return to its next meeting on March 11, with a revised plan indicating 56 square feet of native plantings along the seawall.

Rye City Planning Commission Minutes (Cont.)

February 25, 2003

Page 4 of 8

2. Kass

The Commission questioned the distance of the easement from the property line. They expressed concern with proposed plantings, flag stone planter box, and perennial beds on the easement. The City Engineer said that he has no problem with these items, but wants the contractor to flag all manholes. He also requested that no heavy equipment be used on the easement and there be no further disturbance to steps going towards Forest Avenue.

The Commission expressed concern about raising the wall on the HOA property and whether the wall was in the flood zone. The Commission noted that the height of the wall might constitute fill, which is likely not permitted by law. Linda Whitehead (applicant's attorney) stated that if the Commission had any reservations about the wall addition that the applicant would remove that modification from the plans.

The Commission discussed the type of proposed plantings submitted by Dawn Morton (applicant's landscape designer). The Commission noted that many of the plants were not mitigation plants, but rather ornamental plantings. The Commission also discussed whether 2:1 mitigation planting was called for in this instance, since there was minimal wetland buffer disturbance. They discussed requiring applicants with this type of minimal disturbance application to pay a set fee into a wetland restoration fund rather than giving them wetland credits. Ms. Whitehead indicated that the applicant did not see the need for mitigation plants because there is lawn between plantings and the pond. Ms. Whitehead also suggested that the plant material would help with potential erosion concerns.

The Commission agreed that it wanted revised plans for the March 11, 2003 meeting showing 2:1 mitigation plantings limited to the applicant's property, no extension of the wall, root barriers on all trees along the easement, scale measurements on plan for the existing and proposed terrace and providing the plant list on the plan.

The Commission discussed the possibility of having small applications pay a fee in lieu of mitigation when reasonable mitigation opportunities on a property are not available or practicable. The Commission also noted concern with the fees and extent of regulation for some small projects and suggested that the City's Wetlands Law should be reviewed. The City Planner noted that there have been no revisions to the law since its adoption and suggested it should be reviewed based on the Commission's experiences with actual applications over the past ten years. The City Planner offered to prepare a memorandum for the Commission's next meeting providing some observations on the law.

3. Ann Lane Subdivision

Rye City Planning Commission Minutes (Cont.)

February 25, 2003

Page 5 of 8

1 Linda Whitehead (applicant's attorney) noted that revised plans for the 4-lot subdivision
2 were provided as requested by the Commission. The Commission had no further issues
3 with the revised plans.
4

5 On a motion made by Peter Larr, seconded by Franklin Chu and carried by the following
6 vote:
7

8 AYES: Michael Klemens, Peter Larr, Franklin Chu, Barbara Cummings, Martha
9 Monserrate, Patrick McGunagle

10 NAYS: None

11 RECUSED: None

12 ABSENT: Hugh Greechan
13

14 the Planning Commission took the following action:
15

16 **ACTION:** The Planning Commission conditionally approved Final Subdivision
17 application #277.
18

19 4. Curry 20

21 Note: during the discussion of this matter Mr. Greechan arrived to the meeting.
22

23 The Commission noted that this application has two parts including the construction of a
24 single-family residence and a violation for reconstructing a sea wall within a 100-foot buffer
25 without a permit. The Commission wanted to address the violation separately from the
26 permit application.
27

28 The applicant, Bernard Curry, explained why he was rebuilding the seawall without a permit
29 noting that he was modifying the existing wall so that it was level with the neighbor's wall on
30 either side of his property. Mr. Curry noted that he did not realize that he needed a wetland
31 permit for such a reconstruction. The Commission questioned whether the wall existed and
32 whether there are any old surveys showing the location of the existing wall. Mr. Curry
33 indicated that he would try to obtain an old survey. The Commission questioned whether
34 there were old photos available of his property that may show the wall that may have been
35 provided in connection with a prior application that was before the Commission for an
36 application on an adjacent property.
37

38 The Commission requested that the flood zone elevation and the height of wall needs to be
39 added to the plan in order to determine compliance with the City's Floodplain Management
40 Law. The Commission noted that it would conduct a site walk of the property to better
41 determine the extent of the existing wall.

Rye City Planning Commission Minutes (Cont.)

February 25, 2003

Page 6 of 8

1
2 Alan Pilch (applicant's environmental consultant) discussed the application for the
3 construction of a new house, noting that it would be largely within the same footprint as the
4 existing residence. The new house will add 688 feet of impervious area to the buffer. The
5 Commission noted that it wanted revised plans showing the proposed floor area (i.e. FAR)
6 of the new house as well as neighboring house. The City Planner noted that the calculation
7 of FAR should exclude wetland areas on the property. The Commission also requested
8 that the plans be revised to indicate the existing and proposed amount of impervious
9 surface area on the property.

10
11 The Commission also indicated that water quality drainage improvements be added to the
12 plan such as a drywell to intercept stormwater runoff from driveway. Mr. Pilch indicated that
13 he would provide some water quality measures, but that it could be difficult given the
14 existing steep topography of the site.

5. Discussion of Enhanced Environmental Protection Resolution

15
16
17
18 The Commission discussed a memorandum they received from Julia Novak, the City
19 Manager, outlining some possible strategies responding to the City Council's enhanced
20 wetland protection resolution. In its discussion the Commission noted the following:

- 21 • There needs to be more specificity regarding which City staff or departments will be
22 responsible for various strategies. The Commission noted that the City likely lacks
23 the resources and staff-time to implement some of the suggested strategies.
- 24 • Partnerships with volunteer groups, non-profit organizations and other interests
25 could help address resource limitations of City staff.
- 26 • The extent of enhanced enforcement measures should not be emphasized as much
27 a voluntary recognition programs and education efforts.
- 28 • Tax incentives should not be pursued.
- 29 • A management structure should be established to implement the strategies. Failure
30 to have such a structure identifying who is responsible for what will make even small
31 measures difficult.

32
33 The Commission requested that the City Planner provide a draft memorandum to the City
34 Council outlining the above concerns for its review at its next meeting.

6. Discussion of Commission Document Release Policy

35
36
37
38 The Commission discussed the release of planner's reports to the public. The
39 Commission noted that it has historically not released such reports and questioned the
40 benefit. The Commission noted that such a release could jeopardize the review process,
41 particularly in the hands of applicant's attorneys and result in the City Planner being

Rye City Planning Commission Minutes (Cont.)

February 25, 2003

Page 7 of 8

1 inhibited in making certain comments knowing that they would be available to the public. It
2 was noted that the Commission needs advice from its professional staff without limitation
3 or fear of ramifications.

4
5 As an alternative the Commission discussed providing a disclaimer to the planner's report
6 noting that the comments are advisory and/or for information only and that additional
7 comments of the Commission are possible. The Commission noted that the public could
8 benefit from the planner's comments in understanding the issues and areas of potential
9 concern. In terms of process, however, the Commission discussed the timing of the
10 release of the documents, noting if the comments were released the Friday before the
11 meeting that some may complain that they did not have enough time to review them.

12
13 The Commission agreed to review the matter again in three months.

14
15 On a motion made by Michael Klemens, seconded by Pat McGunagle and failing by the
16 following vote:

17
18 AYES: Michael Klemens, Martha Monserrate, Patrick McGunagle

19 NAYS: Peter Larr

20 ABSTAIN: Hugh Greechan, Franklin Chu, Barbara Cummings

21 ABSENT: None

22
23 **ACTION:** The Commission did not approve the release of the Planner's Report.

24 25 **7. Minutes**

26
27 The Planning Commission reviewed and approved the minutes of its February 4, 2003
28 Special Meeting and its February 11, 2003 meeting.

29 30 **Miscellaneous**

31
32 The Commission's discussed the recent site plan submitted to the Zoning Board of
33 Appeals (ZBA) in connection with the use variance application at the former Brailsford
34 property on Milton Road. The Commission noted that the most recent plan includes the
35 removal of the Gedney Store, which is inconsistent with the Commission's LWRP coastal
36 consistency recommendations regarding the application it provided the ZBA last fall. The
37 Commission requested that the City Planner advise the ZBA of this inconsistency and
38 provide the ZBA with an additional copy of its prior recommendation memorandum.

39 On a motion made by Barbara Cummings, seconded by Peter Larr and carried by the
40 following vote:

Rye City Planning Commission Minutes (Cont.)

February 25, 2003

Page 8 of 8

1 AYES: Michael Klemens, Martha Monserrate, Patrick McGunagle, Peter Larr, Hugh
2 Greechan, Franklin Chu, Barbara Cummings

3 NAYS:

4 RECUSED:

5 ABSENT:

6
7 the Planning Commission took the following action:

8
9 **ACTION:** The City Planner will draft a memo to the Zoning Board of Appeals,
10 expressing the Planning Commission's concerns.

11
12 There being no further business the Commission unanimously adopted a motion to adjourn
13 the meeting at approximately 11:05 p.m.

14
15 Christian K. Miller, AICP
16 City Planner
17